

Thomas Jefferson to Edmond C. Genet, July 24, 1793 , from The Works of Thomas Jefferson in Twelve Volumes. Federal Edition. Collected and Edited by Paul Leicester Ford.

TO THE FRENCH MINISTER J. MSS. (EDMOND CHARLES GENET)

Philadelphia, July 24. 1793.

Sir, —Your favor of the 9th instant, covering the information of Silvat Ducamp, Pierre Nouvel, Chouquet de Savarence, Gaston de Nogeré and G. Beustier, that being on their passage from the French West Indies to the United States, on board merchant vessels of the United States with slaves and merchandise of their property, these vessels were stopped by British armed vessels and their property taken out as lawful prize, has been received.

I believe it cannot be doubted, but that by the general law of nations, the goods of a friend found in the vessel of an enemy are free, and the goods of an enemy found in the vessel of a friend are lawful prize. Upon this principle, I presume, the British armed vessels have taken the property of French citizens found in our vessels in the cases above mentioned, and I confess I should be at a loss on what principle to reclaim it. It is true that sundry nations, desirous of avoiding the inconveniences of having their vessels stopped at sea, ransacked, carried into port and detained, under pretence of having enemy goods aboard, have, in many instances, introduced by their special treaties another principle between them, that enemy bottoms shall make enemy goods, and friendly bottoms friendly goods; a principle much less embarrassing to commerce, and equal to all parties in point of gain and loss. But this is altogether the effect of particular treaty, controlling in special cases the general principle of the law of nations, and therefore taking effect between such nations

Library of Congress

only as have so agreed to control it. England has generally determined to adhere to the rigorous principle, having in no instance, as far as I recollect, agreed to the modification of letting the property of the goods

follow that of the vessel, except in the single one of the treaty with France. We have adopted this modification in our treaties with France, the United Netherlands and Russia: and therefore, as to them, our vessels cover the goods of their enemies, and we lose our goods when in the vessels of their enemies. Accordingly you will be pleased to recollect that in the late case of Holland and Mackie, citizens of the United States, who had laden a cargo of flour on board a British vessel which was taken by the French frigate *l'Ambuscade* and brought into this port, when I reclaimed the cargo it was only on the ground that they were ignorant of the declaration of war when it was shipped. You observed, however, that the 14th article of our treaty had provided that ignorance should not be pleaded beyond two month after the declaration of war, which term had elapsed in this case by some days, and finding that to be the truth, though their real ignorance of the declaration was equally true. I declined the reclamation, as it never was in my view to reclaim the cargo, nor apparently in yours to offer to restore it, by questioning the rule established in our treaty that enemy bottoms make enemy goods. With England, Spain, Portugal, and Austria, we have no treaties: therefore we have nothing to oppose to their acting according to the general law of nations, that enemy goods are lawful prize though found in the bottom of a friend. Nor do I see that France can suffer on the whole, for though she loses her goods in our vessels when found therein by England, Spain, Portugal, or Austria, yet she gains our goods when found in the vessels of England, Spain, Portugal, Austria, the United Netherlands, or Prussia: and I believe I may safely affirm that we have more goods afloat in the vessels of these six

nations than France has afloat in our vessels: and consequently, that France is the gainer and we the loser by the principle of our treaty. Indeed we are the losers in every direction of that principle, for when it works in our favor, it is to save the goods of our friends, when it works against us, it is to lose our own, and we shall continue to lose while the rule is only

Library of Congress

partially established. When we shall have established it with all nations we shall be in a condition neither to gain nor lose, but shall be less exposed to vexatious searches at sea. To this condition we are endeavoring to advance, but as it depends on the will of other nations as well as our own, we can only obtain it when they shall be ready to concur.

I cannot therefore but flatter myself, that on revising the cases of Ducamp and others, you will perceive that their losses result from the state of war which has permitted their enemies to take their goods tho' found in our vessels; and consequently from circumstances over which we have no control.

The rudeness to their persons practised by their enemies is certainly not favorable to the character of the latter. We feel for it as much as for the extension of it to our own citizens their companions and find in it a motive the more for requiring measures to be taken which may prevent repetitions of it.

I have the honor to be, with great respect, Sir, your most obedient humble servant.